

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against: )**

**SALEEM AHMED WARAICH, M.D. )**

**Case No. 800-2014-010291**

**Physician's and Surgeon's )  
Certificate No. A 93667 )**

**Respondent )**

**DECISION AND ORDER**

**The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on October 5, 2018.**

**IT IS SO ORDERED: September 5, 2018.**

**MEDICAL BOARD OF CALIFORNIA**



**Kristina D. Lawson, J.D., Chair  
Panel B**

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SALEEM AHMED WARAICH, M.D.,  
Physician's and Surgeon's Certificate  
No. A 93667,

Respondent.

Case No. 800-2014-010291

OAH No. 2018010738

**PROPOSED DECISION**

Howard W. Cohen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on June 27 and 28, 2018, in Los Angeles.

Peggy Bradford Tarwater, Deputy Attorney General, represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs. Fredrick M. Ray, attorney at law, represented respondent Saleem Ahmed Waraich, M.D., who was present.

During the hearing, complainant moved that the Accusation be amended at page 6, paragraph 22, inserting after "subdivision (a)" the following: "and that he also used marijuana in violation of Health and Safety Code section 11357." Respondent opposed the motion on due process grounds. The motion was granted; respondent declined the ALJ's offer of additional time to prepare a defense to the new allegation.

The record was closed and the matter was submitted for decision on June 28, 2018.

**FACTUAL FINDINGS**

*Jurisdiction*

1. Complainant filed the Accusation in her official capacity. Respondent filed a Notice of Defense. This hearing ensued.

2. The Board issued Physician's and Surgeon's Certificate No. A 93667 to respondent on December 23, 2005. That certificate is scheduled to expire on August 31, 2019.

#### *Respondent's Conviction*

3. On April 24, 2017, in the case of *People v. Waraich* (Super. Ct. Orange County, 2015, No. 15NF1716FA), respondent pled guilty to and was convicted of violating Vehicle Code section 23153, subdivision (e) (driving under the influence of drugs), with an enhancement under Penal Code section 12022.7, subdivision (a) (causing great bodily injury), a felony. The court released respondent on bail on condition that he continue to be monitored for alcohol and drug use by SCRAM Services, wear a drug-testing patch, and remain on home confinement pending sentencing. On October 18, 2017, the court suspended imposition of sentence and placed respondent on five years' formal probation on terms and conditions including that he serve one day in county jail, refrain from unauthorized use of drugs, narcotics, and controlled substances, have his driver's license suspended for six months, refrain from consuming alcoholic beverages, complete a three-month First Offender Alcohol Program, and pay fines, penalties, fees, and restitution.

4. The facts and circumstances underlying the conviction are that, at 3:00 p.m. on December 4, 2014, while visiting his mother at her home, respondent took one-half of a 5 mg tablet of hydrocodone that had been prescribed to his father, who was deceased; respondent had been taking his father's hydrocodone, without a prescription, for two weeks. Having eaten very little on the day in question, respondent left his mother's home and drove his car to shop for Christmas decorations on his way home. While driving, respondent lost consciousness, crossed into opposing traffic lanes and, among other things, struck two pedestrians, seriously injuring them. Police officers found a marijuana cigarette in respondent's car.

5. Respondent reports to a probation officer every three weeks for drug testing. Respondent must telephone the officer if he sleeps anywhere other than in his own home, and he must obtain permission to travel out of state. Respondent has paid all fines and is current on other payment requirements imposed by the court. Probation is scheduled to terminate in October 2022.

#### *Other Disciplinary Considerations*

6. Up to a few days before the accident, respondent used marijuana to relax and alleviate arthritic pain, without a physician's recommendation.

#### *Mitigation and Rehabilitation*

7. Respondent expressed deep regret for the harm he caused the victims of the accident, and for making the poor choice to use a controlled substance without a prescription and then to drive under its influence.

8. Respondent has psoriatic arthritis in his thumb. The condition started when respondent was in residency. He receives cortisone injections from a Dr. Gelfand; the injections

are effective for about one year. In 2014, respondent's finger was swollen and painful for a few months. Rather than make the time for an injection appointment with Dr. Gelfand, respondent self-treated with ibuprofen two or three times per day and, in November 2014, began taking his father's prescription hydrocodone two or three days per week for about two weeks.

9. On the day of the accident, December 4, 2014, respondent had coffee and an apple for breakfast, took ibuprofen, packed his children's lunches, and went to work, where he saw a greater than normal number of patients that morning. He then took his charts and went to his mother's house to meet a worker about a leak in her swimming pool. He typically went to his mother's house two or three times per week, to attend to her affairs. While there on the day of the accident, at about 12:30 or 1:00 p.m., respondent took half of a 5 mg tablet of hydrocodone that had been prescribed for his father, who was then deceased. Respondent acknowledges it was the wrong thing to do; he did it five times over the course of two weeks, rather than seek a steroid injection from his physician for his arthritic pain. He also acknowledges he should have eaten something. He drove his sister's car to the car dealership for service and was shuttled back to his mother's house, where he worked on her mail and bills, and then on his office notes. He left around 5:00 p.m., deposited checks at his bank on Whittier Boulevard, and continued driving, intending to shop for extension cords for Christmas lights at Home Depot. After driving for three or four miles, he suddenly felt light-headed, his vision faded, and he passed out. When he regained consciousness, he realized his air bag had deployed; he heard sirens and a woman screaming.

10. Respondent paid all restitution ordered by the criminal court and settled civil claims brought by the accident victims. He completed the first-offender DUI class ordered by the court. He testified that he learned a great deal about stress and alcohol and drug addiction by attending Alcoholics Anonymous meetings for physicians weekly for a year. He received weekly therapy from a psychologist, Elizabeth Koo Edwards, Ph.D., starting a few months after the accident, for about 30 sessions; he still sees her about once every two months. He testified she has helped him approach hardships and has given him very good advice and a framework for dealing with the accident constructively and for managing stress and taking better care of himself.

11. Respondent last drank alcohol on February 14, 2015, when he ordered a drink with two or three other couples at a Valentine's Day dinner; prior to that, his last drink was before the accident, perhaps in November 2014. He also smoked marijuana occasionally before the accident, without a medical marijuana referral; the last time was on the weekend before the accident, which occurred on a Thursday. Respondent enrolled voluntarily with a testing company to randomly perform tests for alcohol and drugs about five times per month from March 2015 to March 2016. Then he switched to quarterly hair follicle testing for a year leading up to his conviction, when he ended the monitoring.

12. Respondent's monitor alarmed once, in May 2017, for alcohol. Respondent maintains that the alarm was in error, and that he has not had any alcoholic beverage since February 2015. There have been no positive alarms since May 2017.

13. Respondent, a rheumatologist, has a solo practice, seeing about 80 patients per week, most of whom are referred by primary care physicians. He is on staff at Placentia-Linda Hospital, providing consults for physicians treating his patients and other patients.

14. Richard S. Sandor, M.D., a psychiatrist who treats patients with substance use disorders, examined respondent. He met respondent for a 90-minute evaluation in January 2018 and a 50-minute evaluation in April 2018. He reviewed the Accusation, reports of the traffic accident, character reference letters, drug testing laboratory reports, a Controlled Substance Utilization Review and Evaluation System (CURES) report (showing only an April 2012 prescription for Alprazolam), and other documents, and obtained a personal history from respondent.

a. Dr. Sandor opined that respondent does not have a substance use disorder under the Diagnostic and Statistics Manual of Mental Disorders, 5th edition (DSM-5); to diagnose that disorder, there must be a pattern of two or more uses within the period of one year. The accident was a one-time incident and, Dr. Sandor opined, respondent is safe to practice medicine.

b. Dr. Sandor conceded, however, that respondent had been taking hydrocodone repeatedly without a prescription over a two-week period before the accident, and that he had taken all or part of a 5 mg pill the day of the accident. He also knew that respondent smoked marijuana to help him relax, and that, although at the relevant time, legal medical marijuana use required a physician's recommendation, Dr. Sandor never saw such a recommendation in his records review. He testified that possible side effects of hydrocodone are drowsiness and dizziness, that people who are misusing drugs often conceal that fact, and that physicians are not allowed to prescribe for themselves and may not take a narcotic without a prescription.

15. Several colleagues and friends testified on respondent's behalf.

a. Marvi Iqbal, M.D., respondent's wife, testified that respondent was devastated at the injury he caused. He used the accident to become a better person; he stopped using alcohol and drugs, went into therapy, learned to set boundaries, and began regularly exercising to reduce stress.

b. Amesh Parikh, M.D., testified as to respondent's good character and reputation as a physician. Dr. Parikh is a friend of respondent's and refers patients to him, receiving positive reports about respondent from the patients. Respondent used to drink alcohol responsibly at social occasions with Dr. Parikh and his wife, but stopped drinking at the end of 2014. Respondent confided to Dr. Parikh a great burden of anguish and regret about the accident; he now takes better care of himself.

c. Gerald Beckham, M.D., a cardiologist and friend and colleague of respondent's testified about respondent's remorse and his resolve to make more careful choices in his life.

16. Respondent also submitted numerous letters from friends and colleagues, all attesting to his character.

## LEGAL CONCLUSIONS

### *Applicable Authority*

1. The Board's highest priority is to protect the public. (Bus. & Prof. Code, § 2229.)<sup>1</sup>

2. The Board may revoke or suspend a physician's license for unprofessional conduct. (§ 2234.) Unprofessional conduct includes, among other things, (a) violating the Medical Practice Act; (b) being convicted of "any offense substantially related to the qualifications, functions, or duties of a physician and surgeon" (§ 2236, subd. (a)); (c) using any controlled substance or alcohol to an extent or in a manner dangerous to the licensee or to any other person or to the public, or a felony conviction involving the use, consumption, or self-administration of any such substance (§ 2239); and (d) violating any federal or state statute regulating dangerous drugs or controlled substances (§ 2238).

3. An offense is substantially related to the qualifications, functions, or duties of a physician or surgeon "if to a substantial degree it evidences present or potential unfitness" of a licensee to perform licensed functions "in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1360.) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed a conviction. (§§ 2236, subd. (d), 2239, subd. (b).)

4. Hydrocodone is a Schedule II narcotic drug that may not be used without a prescription. (Health & Saf. Code, § 11055, subds. (a), (b)(1)(I).) During the time period relevant here, marijuana possession was an infraction (Health & Saf. Code, § 11357), unless its use was recommended by a physician (Health & Saf. Code, § 11362.5).

### *Burden of Proof*

5. The rigorous education, training, and testing requirements for obtaining a physician's license justify imposing on complainant a burden of proof of clear and convincing evidence. (Evid. Code, § 115; see *Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; *Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911.)

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<sup>1</sup> Further statutory references are to the Business and Professions Code except where otherwise stated.

### *Cause for Discipline*

6. Cause exists to suspend or revoke respondent's license under sections 2234, subdivision (a), and 2236, and California Code of Regulations, title 16, section 1360, because respondent was convicted of driving under the influence of drugs, causing great bodily injury, a felony, in violation of Vehicle Code section 23153, subdivision (e), and Penal Code section 12022.7, subdivision (a), as set forth in Factual Findings 3 through 5. Respondent's was a crime substantially related to his qualifications, functions, and duties as a physician and surgeon, in that it demonstrated a disregard for the safety and welfare of the public.

7. Cause exists to suspend or revoke respondent's license under section 2239, because respondent was convicted of a felony related to the use of a controlled substance, hydrocodone, as set forth in Factual Findings 3 through 5.

8. Cause exists to suspend or revoke respondent's license under section 2238, because respondent used hydrocodone, a Schedule II narcotic, without a prescription, in violation of Health and Safety Code section 11550, subdivision (a), and because respondent used marijuana without a physician's recommendation, in violation of Health and Safety Code section 11357, as set forth in Factual Findings 3 through 9 and 11.

9. Respondent offered evidence of mitigation and rehabilitation. (Factual Findings 7-16.) He remains, however, on formal criminal probation for four more years, and has not had sufficient time or opportunity since his conviction to establish that his continued unsupervised licensure, without probation, would not present a risk to public safety and welfare. Based on Factual Findings 3 through 16, the safety of the public can only be protected if respondent license is placed on probation.

### **ORDER**

Physician's and Surgeon's Certificate No. A 93667, issued to Saleem Ahmed Waraich, M.D., is revoked. The revocation is stayed, however, and respondent is placed on probation for seven years on the following terms and conditions.

#### **1. Notification**

Within seven (7) days of the effective date of this Decision, the respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

## **2. Supervision of Physician Assistants and Advanced Practice Nurses**

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

## **3. Obey All Laws**

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

## **4. Quarterly Declarations**

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

## **5. General Probation Requirements**

### **Compliance with Probation Unit**

Respondent shall comply with the Board's probation unit.

### **Address Changes**

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

### **Place of Practice**

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

### **License Renewal**

Respondent shall maintain a current and renewed California physician's and surgeon's license.



## Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

## **6. Interview with the Board or its Designee**

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

## **7. Non-practice While on Probation**

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If respondent resides in California and is considered to be in non-practice, respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a respondent residing outside of California, will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

#### **8. Completion of Probation**

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

#### **9. Violation of Probation**

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

#### **10. License Surrender**

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his or her license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

#### **11. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

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## **12. Controlled Substances - Abstain From Use**

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

## **13. Alcohol - Abstain From Use**

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the

notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

#### **14. Biological Fluid Testing**

Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and respondent.

If respondent fails to cooperate in a random biological fluid testing program within the specified time frame, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of

submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

### **15. Education Course**

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

### **16. Prescribing Practices Course**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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## **17. Professionalism Program (Ethics Course)**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

## **18. Psychotherapy**

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

DATED: August 9, 2018

DocuSigned by:

*Howard W. Cohen*

HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearing

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO *December 1, 2017*  
BY: *K. Voong* ANALYST

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2014-010291

13 Saleem Ahmed Waraich, M.D.

**A C C U S A T I O N**

14 1275 North Rose Drive, Suite 110  
15 Placentia, California 92870

16 Physician's and Surgeon's Certificate A 93667,  
17 Respondent.

18  
19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On December 23, 2005, the Board issued Physician's and Surgeon's Certificate  
24 Number A 93667 to Saleem Ahmed Waraich, M.D. (Respondent). That license was in full force  
25 and effect at all times relevant to the charges brought herein and will expire on August 31, 2019,  
26 unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“....”

(b) Gross negligence.

6. Section 2236 of the Code states:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“....

“....

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

7. California Code of Regulations, title 16, section 1360, states:

“For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be

1 considered to be substantially related to the qualifications, functions or duties of a person holding  
2 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
3 evidences present or potential unfitness of a person holding a license, certificate or permit to  
4 perform the functions authorized by the license, certificate or permit in a manner consistent with  
5 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
6 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
7 violation of, or conspiring to violate any provision of the Medical Practice Act.”

8 8. Section 2239 of the Code states:

9 “(a) The use or prescribing for or administering to himself or herself, of any controlled  
10 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
11 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
12 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
13 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
14 consumption, or self-administration of any of the substances referred to in this section, or any  
15 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
16 conclusive evidence of such unprofessional conduct.

17 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
18 deemed to be a conviction within the meaning of this section. The Medical Board may order  
19 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the  
20 denial of the license when the time for appeal has elapsed or the judgment of conviction has been  
21 affirmed on appeal or when an order granting probation is made suspending imposition of  
22 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal  
23 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
24 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
25 indictment.”

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9. Section 2238 of the Code states:

“A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.”

10. Health and Safety Code section 11550, subdivision (a), states, in pertinent part:

“(a) A person shall not use, or be under the influence of any controlled substance that is . . . specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055 . . . except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. A person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one year in a county jail. The court may also place a person convicted under this subdivision on probation for a period not to exceed five years.”

11. Under Health and Safety Code section 11055, subdivision (b)(1)(I), hydrocodone is a Schedule II narcotic drug.

**FIRST CAUSE FOR DISCIPLINE**

(Conviction of a Crime)

12. Respondent Saleem Ahmed Waraich, M.D. is subject to disciplinary action under sections 2234, subdivision (a), 2236, and California Code of Regulations, title 16, section 1360 in that he was convicted of driving under the influence of drugs, causing great bodily injury, a felony, in violation of Vehicle Code section 23153, subdivision (e), and Penal Code section 12022.7, subdivision (a). The circumstances are as follows:

13. On December 4, 2014, at approximately 6:00 p.m., Respondent was driving a vehicle eastbound on Whittier Boulevard in La Habra, California. At the intersection of Whittier Boulevard and Walnut Street, Respondent veered in a northeasterly direction, crossing into westbound lanes of traffic. Two pedestrians, P.L. and E.R., were walking across Whittier Boulevard in the crosswalk at the intersection with Walnut Street. Respondent struck the two

1 pedestrians. Respondent's vehicle then struck the east curb of Walnut street, struck the traffic  
2 signal pole, causing it to fall to the ground, and then traveled across a greenbelt, over bushes and  
3 rocks and into a parking lot, where Respondent's vehicle struck a parked vehicle.

4 14. Respondent was charged by Information with driving under the influence of drugs  
5 causing great bodily injury, in violation of Vehicle Code section 23153, subdivision (e). It was  
6 further alleged that Respondent personally inflicted great bodily injury on P.L. and E.R, pursuant  
7 to Penal Code section 12022.7, subdivision (a).

8 15. Respondent admitted that he unlawfully drove a vehicle while under the influence of  
9 hydrocodone, proximately causing great bodily injury to P.L. and E.R.

10 16. Respondent was convicted by guilty plea of a violation of Vehicle Code section  
11 23153, subdivision (e), and he admitted the Penal Code section 12022.7, subdivision (a),  
12 allegation. The conviction is a felony.

13 17. Respondent was sentenced to five years of supervised probation and one day in  
14 county jail. The terms of his probation include a prohibition on unauthorized drugs, narcotics or  
15 controlled substances, driver's license suspension for six months, prohibition on driving a motor  
16 vehicle with a measurable amount of alcohol, prohibition on consumption of alcoholic beverages,  
17 completion of a three-month First Offender Alcohol Program. Respondent was ordered to pay  
18 various fines and fees.

19 18. For the foregoing reasons, cause for discipline exists.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Excessive use of Drugs)

22 19. Respondent is subject to disciplinary action under section 2239 of the Code in that he  
23 was convicted of a felony related to the use of a dangerous drug, hydrocodone. The  
24 circumstances are as follows:

25 20. The allegations in the First Cause for Discipline are incorporated here as if fully set  
26 forth.

27 21. For the foregoing reasons, cause for discipline exists.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Violation of Drug Laws)

3 22. Respondent is subject to disciplinary action under section 2238 of the Code in that he  
4 used Hydrocodone, a Schedule II narcotic, which was not administered by or under the direction  
5 of a person licensed by the state to dispense, prescribe, or administer controlled substances, in  
6 violation of Health and Safety Code section 11550, subdivision (a). The circumstances are as  
7 follows:

8 23. The allegations of the First Cause for Discipline are incorporated here as if fully set  
9 forth.

10 24. Respondent used hydrocodone without a valid prescription.

11 25. For the foregoing reasons, cause for discipline exists.

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Medical Board of California issue a decision:

- 15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 93667,  
16 issued to Saleem Ahmed Waraich, M.D.;
- 17 2. Revoking, suspending or denying approval of his authority to supervise physician  
18 assistants and advanced practice nurses;
- 19 3. If placed on probation, ordering him to pay the Board the costs of probation  
20 monitoring; and
- 21 4.. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: December 1, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

26  
27 *Complainant*

28 LA2017605599